IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1596 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

BHASKARBHAI S. GOSAI - Respondent(s)

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Appearance :

MR MITUL K SHELAT for Petitioner(s) : 1,
MR DG SHUKLA WITH MS ASMITA PATEL FOR NANAVATI & NANAVATI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/09/2005

ORAL JUDGMENT

1. In this petition, the petitioner State Road Transport Corporation has challenged the legality of the award dated 20th June, 2001 passed by Industrial Tribunal,

Ahmedabad. By the impugned award the reference of the respondent workman was allowed in part. Punishment of withholding of three increments with future effect imposed by the petitioner employer was set aside. It was ordered to be substituted by a penalty of withholding of two increments for a period of two years without future effect.

2. The respondent workman was involved in a case of misconduct. On 31/8/1990 he was found in a drunken condition in the premises of the corporation and he had misbehaved by shouting and using foul language. Upon conclusion of the inquiry ultimately penalty that came to be imposed on the workman was that of withholding increments for a period of three years permanently. The workman challenged the penalty before the Labour Court. The Labour Court found that charge of having consumed liquor has not been proved. However, the charge of having shouted and used foul language is not baseless. The Labour Court observed that in the criminal case the workman was exonerated. Considering the evidence led in the departmental inquiry the Labour Court concluded that only part of the charge as narrated above stands proved. The Labour Court was, therefore, pleased to order

reduction in penalty.

3. Having heard the learned advocates appearing for the parties, it appears that the conclusion of the Labour Court that the charge of having somewhat alcohol is not proved, is a factual finding to which the Labour Court arrived at considering several factors including the fact that in the criminal case the workman is exonerated. I see no reason to interfere with these factual findings in exercise of powers under section 226 and 227 of the Constitution of India. However, the allegations of having misbehaved by shouting and using abusive language was believed by the Labour Court also. In that view of the matter, the punishment ordered would not be sufficient. Both the learned advocates appearing for the respective parties submitted that instead of remanding the matter for imposing some higher punishment, this Court may provide for an appropriate punishment especially in view of the fact that the workman is at the verge of retirement. Considering the submissions made, it is directed that the workman shall undergo punishment of withholding of four increments without future effect instead of penalty directed to be awarded by the Labour Court. In the result, the petition is allowed in part.

Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

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